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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

CLERK US DISTRICT C  
NORTHERN DIST. OF  
FILED

2013 AUG 15 AM 11:

DEPUTY CLERK.

**LEIDA BARTMESS**

**VS.**

**NISSAN MOTOR ACCEPTANCE  
CORPORATION**

**CIVIL ACTION NO.**  
**3-13 CV 3 215 - B**  
**JURY TRIAL DEMANDED**

## COMPLAINT

## JURISDICTION

1. The jurisdiction of this Court attains pursuant to the Fair Credit Reporting Act, 15 U.S.C. §1681(p) (“FCRA”) for which jurisdiction is proper in this Court state law claims supplemental thereto. Venue lies in the Dallas Division of the Northern District of Texas since Plaintiff’s claims arose from acts of the Defendant who conducts business in Dallas County, Texas on a regular basis.

## PARTIES

2. Plaintiff, Leida Bartmess, is a natural person who resides in Dallas County, Texas and is a “consumer” as defined by 15. U.S.C. §1681a(c) of the FCRA.

3. Defendant, Nissan Motor Acceptance Corporation is a corporation organized under the laws of the State of California, registered to conduct business in Texas and may be served with process by serving its registered agent, LexisNexis Document Solutions, 211 E. 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701.

## FACTUAL ALLEGATIONS

4. Plaintiff is an individual consumer as defined by 15. U.S.C. §1681a(c) of the FCRA.

5. Defendant Nissan Motor Acceptance Corporation (“NMAC” herein) is a furnisher as defined by the FCRA..

6. Defendant is publishing an inaccuracy regarding a debt.

7. Plaintiff filed bankruptcy November 4, 2010 and received a discharge February 9,

2011.

8. At the time of filing the bankruptcy, Plaintiff was leasing a vehicle which was financed by Defendant. At all times the lease agreement remained in good standing; all payments were timely made.

9. The NMAC lease was not discharged. Although a formal re-affirmation agreement was not executed, in effect, the debt was re-affirmed.

10. Plaintiff made all required payments under the lease and turned in the leased vehicle at the end of the lease in good condition.

11. At the conclusion of the lease, Plaintiff leased another vehicle which was financed by a subsidiary of Defendant. At all times and up to the date of filing of this complaint, Plaintiff has complied with the terms of the lease; all payments have been timely made.

12. Defendant is reporting the NMAC debt as currently past due debt on Plaintiff's credit/consumer report and reporting that the lease was discharged in bankruptcy.

13. Plaintiff completed the terms of the lease; the lease was not discharged in bankruptcy.

14. Plaintiff is currently leasing another vehicle from a subsidiary of Defendant and is in good standing.

15. Plaintiff has disputed the reporting of this inaccuracy with each of the credit reporting agencies; upon information and belief, each credit reporting agency forwarded the dispute and the supporting documentation to Defendant.

16. Plaintiff has also disputed the reporting of this inaccuracy directly with the Defendant and sent supporting documentation.

17. Defendant has not corrected its reporting on Plaintiff's consumer report.

## **CAUSES OF ACTION**

### **COUNT I**

18. Plaintiff re-alleges and incorporates paragraphs 1 through 17 above as if fully set out herein.

19. NMAC violated the Fair Credit Reporting Act, 15 U.S.C. §1681s-2(b) by publishing the account representation within Plaintiff's credit file with one or more credit reporting agencies, by representing the debt was included in bankruptcy, continuing to report the debt as discharged in bankruptcy, by failing to fully and properly investigate the Plaintiff's dispute of the NMAC representation; by failing to review all relevant information regarding same; by failing to correctly report results of an accurate investigation to each credit reporting agency; and by failing to permanently and lawfully correct its own internal records to correct representations to the consumer reporting agencies.

20. As a result of this conduct, action and inaction of NMAC, the Plaintiff suffered damage by loss of credit, loss of the ability to purchase and benefit from credit, the mental and emotional pain and anguish and the humiliation and embarrassment of credit denials.

21. NMAC's conduct, action and inaction was willful, rendering it liable for actual or statutory and punitive damages in an amount to be determined by the Court pursuant to 15 U.S.C. §1681n. In the alternative, it was negligent, entitling the Plaintiff to recover actual damages under 15 U.S.C. §1681o.

22. The Plaintiff is entitled to recover costs and attorney fees from NMAC in an amount to be determined by the Court pursuant to 15 U.S.C. §1681n and §1681o.

### **COUNT III**

23. By reason of the allegations in this Complaint and the Fair Credit Reporting Act, Plaintiff is entitled to recover attorney's fees in a sum that is reasonable in relation to the amount of work expended for which Plaintiff sues herein. The attorney whose name is subscribed to this

pleading has been employed to assist Plaintiff in the prosecution of this action.

24. Plaintiff requests a trial by jury.

WHEREFORE, Plaintiff demands judgment for compensatory and punitive damages against Defendant; for attorney fees and costs; for pre-judgment and post-judgment interest at the legal rate, and such other relief the Court does deem just, equitable and proper.

**TRIAL BY JURY IS DEMANDED.**

Respectfully submitted,



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Fax: 214/378-6670  
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JS 44 (Rev. 09/11)

**CIVIL COVER SHEET**

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Leida Bartmess

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

**DEFENDANTS**

Nissan Motor Acceptance Corporation

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

**3-13CV3215-B****II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
|   | PTF                        | DEF                        |   | PTF                        | DEF                        |
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
			<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. 1681

Brief description of cause:

Violation of FCRA regarding the reporting of a debt

**VII. REQUESTED IN COMPLAINT:**
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

PENDING OR CLOSED: (See instructions):

JUDGE

DOCKET NUMBER

DATE

8-15-13

SIGNATURE OF ATTORNEY OF RECORD

Sharon Campbell

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE